

AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 498

Introduced by Assembly Member Haynes

February 16, 2005

~~An act to add Section 4059.5 to the Family Code, relating to child support.~~ *An act to amend Section 5060 of the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 498, as amended, Haynes. ~~Child support guidelines: National Guard members.~~ *Vehicles: special interest license plates.*

Existing law authorizes an organization to apply to the Department of Motor Vehicles to establish a special interest license plate program and the department is required to authorize that participation if the issuance of those plates is required by statute and the organization is tax exempt, submits a financial plan describing the purpose for which certain revenues generated from the sale of the plates will be used, and submits an essential design of the proposed special interest license plate that, among other things, provides for the placement of the number and letter characters in a manner that allows for law enforcement to readily identify those characters.

This bill would instead require the Department of Motor Vehicles to authorize a special interest license plate program under those same conditions, except that the bill would prohibit a special interest license plate from containing language that is not protected under the United States Constitution or the California Constitution. The bill would allow a special interest license plate program established by a specific statute that is effective on or before January 1, 2007, to continue to be valid.

~~Existing law establishes a statewide uniform guideline for determining child support. These provisions calculate child support on the basis of the annual net disposable income of each parent. In order to determine this amount, a court must deduct from the annual gross income certain items, such as tax liability and job-related expenses. In addition, a court may allow other income deductions on the basis of financial hardship, as specified.~~

~~This bill would provide that the annual net disposable income of a parent who is on active duty as a member of the National Guard shall be calculated on the basis of his or her gross income from the National Guard for each month or part of a month during that year that the parent is on active duty, as specified. The bill would require a court to modify any current order for support that does not comply with that provision. The bill would provide for the rescission of certain penalties imposed upon a parent for his or her failure to make payments as ordered pursuant to a child support order that does not comply with that provision, as specified. The bill would also apply retroactively, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5060 of the Vehicle Code is amended to
2 read:

3 5060. (a) An organization may apply to the department for
4 participation in a special interest license plate program and the
5 department shall issue special license plates for that program if
6 ~~the issuance of those plates is required by this article;~~ the
7 sponsoring organization complies with the requirements of this
8 section, and the organization meets all of the following criteria:

9 (1) Qualifies for tax-exempt status under Section 501(c)(3) of
10 the Internal Revenue Code and Section 23701d of the Revenue
11 and Taxation Code.

12 (2) Submits a financial plan describing the purposes for which
13 the revenues described in paragraph (2) of subdivision (e) will be
14 used.

15 (3) Submits a design of the organization's proposed special
16 interest license plate that, among other things, provides for the

1 placement of the number and letter characters in a manner that
2 allows for law enforcement to readily identify those characters.

3 (b) ~~Any~~ A person described in Section 5101 may apply for
4 special interest license plates, in lieu of the regular license plates.

5 (c) The design criteria for a special interest license plate are as
6 follows:

7 (1) The license plate for a passenger vehicle, commercial
8 vehicle, or trailer shall provide a space not larger than 2 inches
9 by 3 inches to the left of the numerical series and a space not
10 larger than five-eighths of an inch in height below the numerical
11 series for a distinctive design, decal, or descriptive message as
12 authorized by this article. The plates shall be issued in sequential
13 numerical order or, pursuant to Section 5103, in a combination of
14 numbers or letters.

15 (2) Special interest license plates authorized under this article
16 may be issued for use on a motorcycle. That license plate shall
17 contain a five digit configuration issued in sequential numerical
18 order or, pursuant to Section 5103, in a combination of numbers
19 or letters. There shall be a space to the left of the numerical series
20 for a distinctive design or decal and the characters shall contrast
21 sharply with the uniform background color. No motorcycle plate
22 containing a full plate graphic design is authorized. Those
23 particular special interest license plates that were issued prior to
24 the discontinuation provided by this paragraph may continue to
25 be used and attached to the vehicle for which they were issued
26 and may be renewed, retained, or transferred pursuant to this
27 code.

28 (3) *A special interest license plate may not contain language*
29 *that is not protected under the United States Constitution or the*
30 *California Constitution.*

31 (d) (1) ~~No~~ An organization ~~may~~ *shall not* be included in the
32 program until not less than 7,500 applications for the particular
33 special interest license plates are received. Each organization
34 shall collect and hold applications for the plates. Once the
35 organization has received at least 7,500 applications, it shall
36 submit the applications, along with the necessary fees, to the
37 department. The department shall not issue any special interest
38 license plate until an organization has received and submitted to
39 the department not less than 7,500 applications for that particular
40 special interest license plate within the time period prescribed in

1 this section. Advanced payment to the department by an
2 organization representing the department's estimated or actual
3 administrative costs associated with the issuance of a particular
4 special interest license plate shall not constitute compliance with
5 this requirement. The organization shall have 12 months,
6 following the *authorization of the department or the effective*
7 *date of the enactment of the specific legislation enabling the*
8 *organization to participate in this program, to receive the*
9 *required number of applications. If, after that 12 months, 7,500*
10 *applications have not been received, the organization shall*
11 *immediately do either of the following:*

12 (A) Refund to all applicants any fees or deposits that have
13 been collected.

14 (B) Contact the department to indicate the organization's
15 intent to undertake collection of additional applications and fees
16 or deposits for an additional period, not to exceed 12 months, in
17 order to obtain the minimum 7,500 applications. If an
18 organization elects to exercise the option under this paragraph, it
19 shall contact each applicant who has submitted an application
20 with the appropriate fees or deposits to determine if the applicant
21 wishes a refund of fees or deposits or requests the continuance of
22 the holding of the application and fees or deposits until that time
23 that the organization has received 7,500 applications. The
24 organization shall refund the fees or deposits to any applicant so
25 requesting. In no event shall an organization collect and hold
26 applications for a period exceeding 24 months following the date
27 of authorization as described in paragraph~~(2)~~ (1) of subdivision
28 ~~(a)~~ (d).

29 (C) Sequential plate fees shall be paid for the original
30 issuance, renewal, retention, replacement, or transfer of the
31 special interest license plate as determined by the organization
32 and authorized by department's regulations. Those plates
33 containing a personalized message are subject to the fees
34 required pursuant to Sections 5106 and 5108 in addition to any
35 fees required by the special interest license plate program.

36 (2) (A) If the number of currently outstanding and valid
37 special interest license plates in any particular program provided
38 for in this article is less than 7,500, the department shall notify
39 the sponsoring organization of that fact and shall inform the
40 organization that if that number is less than 7,500 one year from

1 the date of that notification, the department will no longer issue
2 or replace those special interest license plates.

3 (B) Those particular special interest license plates that were
4 issued prior to the discontinuation provided by subparagraph (A)
5 may continue to be used and attached to the vehicle for which
6 they were issued and may be renewed, retained, or transferred
7 pursuant to this code.

8 (e) (1) The department shall deduct its costs to develop and
9 administer the special interest license plate program from the
10 revenues collected for the plates.

11 (2) The department shall deposit the remaining revenues from
12 the original issuance, renewal, retention, replacement, or transfer
13 of the special interest license plate in a fund which shall be
14 established by the Controller.

15 (f) When payment of renewal fees is not required as specified
16 in Section 4000, or when a person determines to retain the
17 special interest license plate upon a sale, trade, or other release of
18 the vehicle upon which the plate has been displayed, the person
19 shall notify the department and the person may retain and use the
20 plate as authorized by department regulations.

21 (g) An organization that is eligible to participate in a special
22 interest license plate program pursuant to this article and receives
23 funds from the additional fees collected from the sale of special
24 license plates shall not expend annually more than 25 percent of
25 those funds on administrative costs, marketing, or other
26 promotional activities associated with encouraging application
27 for, or renewal of, the special *interest* license plates.

28 (h) (1) ~~Every~~ *An organization authorized by the department*
29 *under this section, or on or before January 1, 2007, required by*
30 *specific legislation under this* article to offer special interest
31 license plates shall prepare and submit an annual accounting
32 report to the department by June 30. The report shall include an
33 accounting of all revenues and expenditures associated with the
34 special interest license plate program.

35 (2) If an organization submits a report pursuant to paragraph
36 (1) indicating that the organization violated the expenditure
37 restriction set forth in subdivision (g), the department shall
38 immediately cease depositing fees in the fund created by the
39 Controller for that organization under paragraph (2) of
40 subdivision (e) and, instead, shall deposit those fees that would

1 have otherwise been deposited in that fund in a separate fund
2 created by the Controller, which fund is subject to appropriation
3 by the Legislature. The department shall immediately notify the
4 organization of this course of action. The depositing of funds in
5 the account established pursuant to this paragraph shall continue
6 until the organization demonstrates to the satisfaction of the
7 department that the organization is in compliance or will comply
8 with the requirements of subdivision (g). If one year from the
9 date that the organization receives the notice described in this
10 paragraph, the organization is still unable to satisfactorily
11 demonstrate to the department that it is in compliance or will
12 comply with the requirements of subdivision (g), the department
13 shall no longer issue or replace those special interest license
14 plates associated with that organization. Those particular special
15 interest license plates that were issued prior to the
16 discontinuation provided by this paragraph may continue to be
17 used and attached to the vehicle for which they were issued and
18 may be renewed, retained, or transferred pursuant to this code.

19 (3) Upon receiving the reports required under paragraph (1),
20 the department shall prepare and transmit an annual consolidated
21 report to the Legislature containing the revenue and expenditure
22 data.

23 *(i) For special interest license plate programs required under*
24 *this article by specific legislation that become effective on or*
25 *before January 1, 2007, an organization may apply to the*
26 *department for participation in one of those special interest*
27 *license plate programs and the department shall issue special*
28 *interest license plates for that program, if the sponsoring*
29 *organization complies with the requirements of this section and*
30 *meets all the criteria in subdivision (a).*

31 ~~SECTION 1. Section 4059.5 is added to the Family Code, to~~
32 ~~read:~~

33 ~~4059.5. (a) For purposes of Section 4059, the portion of the~~
34 ~~annual net disposable income of a parent that is attributable to~~
35 ~~each month or part of a month during the year that the parent is~~
36 ~~on active duty as a member of the National Guard, shall be~~
37 ~~computed on the basis of his or her gross income from the~~
38 ~~National Guard, plus any other income actually paid to that~~
39 ~~parent during his or her period of active duty service. All~~

1 applicable deductions authorized pursuant to Section 4059 or any
2 other provision of law governing child support shall apply.

3 (b) (1) The court shall modify any current order for child
4 support that does not comply with subdivision (a) of this section.

5 (2) The court shall rescind any penalties imposed upon a
6 parent for his or her failure to make payments as ordered
7 pursuant to a child support order that is not in accordance with
8 subdivision (a). Any penalties already paid by that parent shall be
9 credited toward his or her next child support payment. In any
10 case in which a court determines that the parent does not have
11 any child support obligations, that parent may seek a court order
12 for the refund of the total amount of any penalties rescinded
13 pursuant to this section from the person or entity to whom those
14 penalties were paid.

15 (c) This section shall apply retroactively to the extent
16 necessary to ensure that any parent who was on active duty as a
17 member of the National Guard from 2003 to 2005, inclusive,
18 while he or she was a resident of California may seek a
19 modification of a child support order that does not comply with
20 subdivision (a) and the rescission of any resulting penalties, as
21 authorized pursuant to subdivision (b).